

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CRAIG CUNNINGHAM,

Plaintiff,

v.

MICHAEL MONTES, Tollfreezone.com, Inc.,
Mydataguys.com, LLC, Podmusicgear.com,
Inc., Tollfreezone.com, Inc., dba
Docauditor.com, Tollfreezone.com, Inc., dba
Mobile Trackme, Emailmyvmail.Com, Inc.,
and John and Jane Does 1-10,

Case No. 16-cv-761

Defendants.

DECLARATION OF MICHAEL MONTES

I, Michael Montes, declare pursuant to 28 U.S.C. § 1746, as follows with regard to the discovery disclosures ordered by the Court at its hearing on June 20, 2017:

1. The settlor and beneficiary of the trust that owns the Somerset property.

Response: My wife Amy and I are the settlors and beneficiaries of the trust.

2. Who lives at the Somerset property.

Response: No one. It is a rural farm property that is rented out for events. My wife runs this event business and cooks for the events.

3. Where Defendant Michael Montes lives.

Response: 26961 Via La Mirada, San Juan Capistrano, CA 92675. This address is identified in the Plaintiff's Complaint filed on February 16, 2016, in the United States District Court for the Middle District of Tennessee. Attached as Exhibit A is a copy of a portion of the Plaintiff's

Complaint in that lawsuit showing he was aware of my home address prior to filing the current lawsuit.

4. Where Montes has lived for the past three years.

Response: 26961 Via La Mirada, San Juan Capistrano, CA 92675.

5. All travel to Wisconsin by Montes and his wife in the past three years.

Response: 5/5/17 – 6/13/17

3/22/17 – 4/5/17

1/25/17 – 2/12/17

Mid Nov. – 11/22/16

10/26/16 – 10/31/16

Late Sept. – 10/1/16

8/23/16 – Late August

5/28/16 – 6/14/16

5/11/16 – 5/23/16

4/15/16 – 5/2/16

3/13/16 – 3/20/16

1/5/16 – 2/26/16

2014 – 2015: Spent several weeks during these years in WI.

The vast majority of these trips concerned my wife's event business.

6. All Facebooks posts by Montes and his wife in the past three years.

Response: My wife and I frequently post to our Facebook accounts. Facebook only let me print out a certain number of posts. Attached as Exhibit B are the posts on my wife's page that Facebook let me print out. There are 88 pages in the pdf covering approximately one year.

Attached as Exhibit C are the posts from my page that Facebook let me print out. There are 650 pages in the pdf going back to January of this year.

7. The principal place of business of each of the defendant businesses.

Response: All of the defendant businesses are set up for 26961 Via La Mirada, San Juan Capistrano, CA 92675. The only company that has anything to do with the telephone dialing industry is TollFreeZone.com, Inc., and it is a California corporation.

8. Finally, I apologize for not providing my address to the sheriff's deputy during a phone call in November 2016. I remember having concerns during the phone call whether the call was real and whether I was speaking with a sheriff's deputy from Wisconsin. Other than this one confusing phone call, I had no knowledge of the present lawsuit until this May. I sincerely request that this Court not enter a default judgment against me totaling hundreds of thousands of dollars for my actions during one phone call.

9. The claims alleged against me are meritless. None of the companies that are defendants in this lawsuit make auto-dialed phone calls. I also do not make such calls.

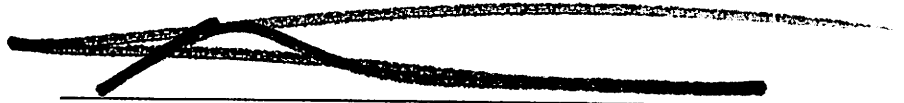
10. I have retained counsel to appear and defend my interests in both the Wisconsin and Tennessee lawsuits. Attached as Exhibit D is a copy of the Notice of Appearance filed by my legal counsel in the Tennessee lawsuit. The Complaint filed in the United States District Court for the Middle District of Tennessee makes the same type of claims as are alleged in the present lawsuit. Attached as Exhibit E is a copy of the Plaintiff's First Amended Complaint filed August 15, 2016, in that action alleging TCPA violations against the same defendants as are named in the present lawsuit.

11. If the Court would like me to appear at the hearing on July 18, 2017, I can make arrangements to appear by phone.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Dated July 5, 2017.

A handwritten signature in black ink, appearing to read "Michael Montes", written over a horizontal line.

Michael Montes